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August 28, 2007

To: Scott Svonkin, Chairperson
Los Angeles County Commission on Insurance

From: William T Fujioka
Chief Executive Officer

A handwritten signature in black ink, appearing to read "W. T. Fujioka", is written over the printed name and title.

**REQUEST FOR REVIEW OF COMMISSION ON INSURANCE'S LEGISLATIVE
RECOMMENDATION**

At your request, we have reviewed the Commission on Insurance's recommendation to the Board of Supervisors to support AB 1324 (De La Torre). **Our review indicates that there is established Board policy to support this measure.**

As amended on July 17, 2007, AB 1324 would clarify that a health maintenance organization or health insurer that authorizes treatment by a provider is prohibited from rescinding or modifying this authorization after the provider renders treatment for any reason, including subsequent cancellation or modification of the patient's contract, or upon determination that the patient's eligibility was not assessed accurately. AB 1324 specifies that the bill's provisions do not constitute a change in existing law.

Existing law prohibits an insurer that provides coverage for hospital, medical, or surgical expenses, and a health care service plan that authorizes treatment for services covered under a contract or plan, to rescind or modify this authorization after the provider renders the health care service in good faith. It also prohibits rescinding, canceling, or limiting a plan contract or insurance policy due to the plan's or insurer's failure to resolve all reasonable questions arising from the information submitted with an application before issuing the plan contract.

The California Medical Association (CMA), the sponsor of AB 1324, asserts in a recent Senate Floor analysis that, despite existing law, both health care providers and patients are not being reimbursed for services that were preauthorized by an HMO or health insurer. CMA contends that the health insurance industry has engaged in a practice of

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retroactively refusing to cover their policyholders' medical treatment after the treatment has been provided pursuant to the insurers' authorization. The bill is intended to clarify existing law and rectify that problem.

Health insurance industry associations and individual insurance companies argue that this bill would not be a restatement of existing law because the law currently allows them to retroactively rescind treatment authorizations, even post-treatment, if the patient was not eligible due to various reasons including non-payment of premiums, fraud, and out-of-coverage treatment by the provider.

AB 1324 is sponsored by the CMA and supported by AARP, Adventist Healthcare Coalition, California Division of the American Cancer Society, American Lung Association, California Alliance for Retired Americans, California Chapter of the American College of Emergency Physicians, California Hospital Association, California Society of Anesthesiologists, Consumer Federation of California, Gray Panthers, Health Access California, and the Foundation for Taxpayer and Consumer Rights, among others. It is opposed by America's Health Insurance Plans, Association of California Life and Health Insurance Companies, Blue Cross of California, Blue Shield of California, California Association of Health Plans, Health Net, and Pacific Care.

AB 1324 passed the Senate Judiciary Committee on July 16, 2007 by a vote of 6 to 3 and is now awaiting consideration on the Senate Floor.

Support for AB 1324 would be consistent with existing Board policy to support measures which require that cancellation of health insurance coverage must be prior to any authorization of services.

When the Commission seeks the Board's support for this measure, a copy of this memorandum should be attached to the Commission's letter requesting Board action on your recommendation.

Thank you for contacting our office regarding this measure.

WTF:GK
MAL:MS:acn

c: Executive Officer, Board of Supervisors